## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

TOWN NORTH BANK, N.A.,	§
	§
Plaintiff,	§
	§
V.	§
	§
SHAY FINANCIAL SERVICES, INC.,	§
UBS FINANCIAL SERVICES, INC.,	§ CIVIL ACTION NO. 3:11-CV-3125-L
MORGAN STANLEY & CO., LLC,	§
MERRILL LYNCH & CO., INC.,	§ The Hon. Sam A. Lindsey
MERRIL LYNCH, PIERCE, FENNER &	§
SMITH INCORPORATED, AND	§
J.P. MORGAN SECURITIES LLC,	§
Successor in Interest to	§
BEAR STEARNS & CO., INC.,	§
	§
Defendants.	§

# DEFENDANT SHAY FINANCIAL SERVICES, INC.'S REPLY MEMORANDUM IN SUPPORT OF REQUEST TO CERTIFY THE MARCH 30, 2013 ORDER FOR IMMEDIATE APPEAL AND TO STAY PROCEEDINGS

[28 U.S.C. §1292(b)]

Defendant Shay Financial Services joins in the Bank Defendants' Reply Brief. The March 30, 2013 Order denying Defendants' Motions to Dismiss (1) involves controlling questions of law, which were addressed in Shay's Motion to Dismiss and the Bank Defendants' Motion to Dismiss; (2) there are substantial grounds for difference of opinion on those questions of law, and (3) an immediate appeal from the Order may materially advance the ultimate termination of this action.

Dated: June 3, 2013 Respectfully submitted,

/s/ Mark R. McDonald

Mark R. McDonald State Bar No. 137001 Admitted Pro Hac Vice

#### MORRISON & FOERSTER LLP

707 Wilshire Blvd., Ste. 6000 Los Angeles, CA 90017-3543 Telephone: 213-892-5200 Facsimile: 213-892-5454

### /s/ S. Cass Weiland

S. Cass Weiland State Bar No. 21081300 PATTON BOGGS LLP 2000 McKinney Ave., Suite 1700 Dallas Texas 75201

Telephone: 214-758-1500 Facsimile: 214-758-1550

ATTORNEYS FOR DEFENDANT SHAY FINANCIAL SERVICES, INC.

# **CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2013 a true and correct copy of the foregoing was filed via the Court's CM/ECF system which will send notification of such filings(s) to all counsel of record consenting to electronic service.

/s/ Mark R. McDonald
Mark R. McDonald

la-1212401